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Convention on the Rights of the Child

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**Committee on the Rights of the Child**
**Sixty-eighth session**

**Summary record of the 1939th (Chamber A) meeting**
Held at the Palais Wilson, Geneva, on Wednesday, 14 January 2015, at 3 p.m.

*Chairperson*: Ms. Sandberg

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports of States parties** (*continued*)

*Combined second to fourth periodic reports of Turkmenistan* (continued) (CRC/C/TKM/2-4; CRC/C/TKM/Q/2-4 and Add.1)

*Initial report of Turkmenistan on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* (continued) (CRC/C/OPSC/TKM/1; CRC/C/OPSC/TKM/Q/1 and Add.1)

*Initial report of Turkmenistan on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict* (continued) (CRC/C/OPAC/TKM/1; CRC/C/OPAC/TKM/Q/1)

1. *At the invitation of the Chairperson, the delegation of Turkmenistan took places at the Committee table.*

2. **Ms. Atajanova** (Turkmenistan), replying to questions asked at the 1937th meeting, said that the comprehensive, intersectoral reform of the juvenile justice system would be completed in 2016. One of the main changes was that hearings and trials involving minors would be conducted in specially equipped premises so as to spare them unnecessary trauma. While some articles of the Criminal Code had already been brought into line with international instruments, a review of all national legislation was under way to complete the process. Seminars were being held, in conjunction with the United Nations Children's Fund (UNICEF), to train law enforcement officers and the judiciary with a view to reforming the way in which juvenile justice was handled.

3. **Ms. Berdiyeva** (Turkmenistan) said that many actors were involved in the implementation of juvenile justice, including the Ministry of Internal Affairs, the Ministry of Health, the Ministry of Education and non-governmental organizations (NGOs). The Inspectorate for Juvenile Affairs provided training in children's rights and a mentoring programme was being developed. Furthermore, relevant policies were being reworked and there were plans to build additional shelters.

4. **Ms. Khazova** (Country Rapporteur for the Convention and for the Optional Protocol on the sale of children, child prostitution and child pornography) asked whether the delegation could confirm that specialized judges would not be appointed to adjudicate cases involving juveniles. She also asked whether the reform affected only criminal law or whether it also encompassed civil law, whether it would introduce alternatives to imprisonment and whether it would address psychological support for child victims. Given that minors often fell into crime because of their family environment, it would be interesting to know whether a system was in place for the early detection of problems in the family and, if not, whether it might be considered as part of the reform.

5. **Ms. Berdiyeva** (Turkmenistan) said that the reform also covered civil law. Alternatives to imprisonment were already in place, including conditional sentences whereby young offenders remained with their families. The Inspectorate for Juvenile Affairs sent officers to schools to talk to teachers and identify troubled children. When discussions with the children failed, they were placed on a watch list in the hope of preventing them from falling into delinquency.

6. **Ms. Atajanova** (Turkmenistan) said that it had been decided that specialized juvenile courts were not appropriate. However, cases involving minors were generally assigned to judges who had experience with young offenders, and relevant training was available to judges. The juvenile justice system addressed psychological support and reintegration, which were provided by social workers in tandem with NGOs.

7. **Mr. Gastaud** asked whether large cities had judges who dealt solely with cases involving minors and whether the Criminal Code provided for different penalties depending on whether the offence was committed by a minor or an adult.

8. **The Chairperson** asked whether the new juvenile justice system would contain an element of restorative justice, such as meetings between offenders and victims.

9. **Ms. Atajanova** (Turkmenistan) said that the judges who handled cases involving minors had special training but also adjudicated other types of cases. Penalties were always different for minors than for adults. Offender-victim meetings or mediation were not currently an option, but they had been included in the juvenile justice reform for further study with a view to their future introduction.

10. **Ms. Agayeva** (Turkmenistan), replying to earlier questions about HIV/AIDS, said that basic prevention work was carried out by the National HIV/AIDS Prevention Centre, provincial information centres and more than 35 diagnostic laboratories, with the support of UNICEF, the United Nations Population Fund and the World Health Organization. The National Centre had not closed in 2010, but had been moved to a new, purpose-built facility. It was State funded and its main tasks were to raise awareness, including among children and families, carry out anonymous screening and provide pre- and post-test counselling. It also operated a helpline. Free HIV tests were available to blood donors, pregnant women, health-care professionals and persons living with specific medical conditions. The country was building a reserve of antiretroviral drugs to be renewed annually. The national programme for the prevention of HIV/AIDS 2012–2016 was particularly focused on the identification of risk factors. Health-care professionals received regular skills upgrading and manuals and protocols on HIV prevention had been designed in both Turkmen and Russian. The life skills component that had been added to the basic education curriculum dealt with the issue of HIV/AIDS.

11. **Ms. Khazova** enquired about trends in the HIV/AIDS morbidity rate.

12. **Ms. Agayeva** (Turkmenistan) replied that there were no data on the subject.

13. **The Chairperson** said that she took it that the authorities did not in fact know whether or not people were infected or that test results were not recorded.

14. **Ms. Agayeva** (Turkmenistan) said that certain categories of people were obliged to undergo HIV testing, that the results were recorded and that statistics were kept on those who were tested, but that there were no registered cases of HIV infection.

15. **Ms. Berdiyeva** (Turkmenistan) said that Turkmenistan was a country of origin for trafficking, but that no trafficking offences had been recorded between 2011 and 2014. A cooperation agreement between national law enforcement agencies and the International Organization for Migration was being negotiated. Victims of trafficking who returned to the country reported their experience and the offenders were brought to justice. Children were protected against trafficking because the authorization of both parents was required for a child to leave the country. Human traffickers were liable to 4 to 10 years' imprisonment when the victims were adults, or 8 to 15 years when the victims were minors. Since 2011, there had been fewer than five cases per year of the offence of enticing minors into prostitution.

16. **Ms. Khazova** said that she would appreciate clarification of the last-mentioned offence.

17. **Ms. Berdiyeva** (Turkmenistan) said that the figures she had provided were for the offence of engaging in sexual relations with a minor. Although there had been no victims of child pornography, there had been a few cases of paedophilia, which was defined under the Criminal Code as sexual interference with a minor. Peralties for that offence depended on

the age of the victim. Regarding the prevention of sexual offences against children, any professionals who might come into contact with children received specific training. Furthermore, international law, including the Convention and its Optional Protocols, was a compulsory subject at military and police academies and law schools. At the beginning of every academic year, the relevant ministries, the procurator's office and civil society organizations drew up a joint plan and organized conferences on a broad range of issues affecting children, including the risk of trafficking, prostitution and pornography.

18. **Ms. Khazova** said that she wished to receive further information about the conferences, specifically regarding the target audience, whether they were regular, how well attended they were and whether attendance varied between rural and urban areas.

19. **Ms. Berdiyeva** (Turkmenistan) replied that the conferences took place in schools periodically and that the target audience varied depending on the topic. Officials of the Inspectorate for Juvenile Affairs visited schools to ensure children's well-being.

20. **Ms. Khazova** asked how many children fell under the responsibility of each inspector and whether the inspectors' caseload was realistic.

21. **Ms. Berdiyeva** (Turkmenistan) said that the inspectors covered schools and underprivileged households in a given area and that their number was sufficient to manage the workload.

22. **The Chairperson** asked for clarification regarding the definition of human trafficking contained in the Criminal Code and the distinction apparently made between the sale of children, enticing minors into prostitution and trafficking in children.

23. **Ms. Berdiyeva** (Turkmenistan) said that, given that there had been very few cases of children being used for sexual purposes in the State party, such activities did not really constitute trafficking. The Criminal Code defined trafficking in persons as the purchase or sale of human beings or recruiting, transporting, harbouring or transferring them to another person for the purpose of their exploitation. Anyone found guilty of selling minors could be sentenced to 8 to 15 years' imprisonment.

24. **The Chairperson** requested clarification of the difference between the enticement of minors into prostitution and the use of children for sexual purposes under the State party's legislation.

25. **Ms. Berdiyeva** (Turkmenistan) said that law enforcement officials were responsible for carrying out preventive work regarding the trafficking of persons. The Inspectorate for Juvenile Affairs and representatives of law enforcement agencies and civil society also carried out such work with minors at risk of being trafficked. Officials of the Ministry of Internal Affairs regularly gave talks in schools to raise awareness of the issue. The International Organization for Migration (IOM) provided the State party with related technical support, and a national action plan to combat trafficking in persons for 2016–2020, which provided for victim protection and rehabilitation activities, was currently being prepared. Preventive measures in place included leaflets on trafficking in persons, devised by law enforcement officials and the IOM.

26. As to child pornography and the dissemination of pornographic materials and recordings, the relevant legislation had never been implemented because no cases had arisen involving those issues. However, such materials would be confiscated and destroyed following the completion of the corresponding investigation. Reoffenders could be imprisoned for up to 5 years.

27. **Mr. Geldimammedov** (Turkmenistan) said that the minimum age for enrolment in the country's military schools was 14 years. In addition to following the normal school curriculum, students at such establishments studied basic theoretical and preparatory

military studies for two hours a week and benefited from free board and lodging. Once they had finished their secondary education, they could choose to study at any higher education institution. School curricula covered general, human and children's rights, basic legal issues, national legislation on children's rights and international instruments, such as the Convention on the Rights of the Child (CRC).

28. **Mr. Madi** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) asked whether students at military schools received weapons training and whether the disciplinary procedures in such establishments differed in any way from those applied in non-military secondary schools.

29. **Mr. Geldimammedov** (Turkmenistan) said that students at military schools did not receive any weapons training and disciplinary procedures in such establishments were identical to those applied in other schools.

30. **Mr. Haljanov** (Turkmenistan), referring to a question asked at the 1937th meeting, said that no separate agreements on the two Optional Protocols existed between Turkmenistan and any of the other States members of the Commonwealth of Independent States (CIS). Agreements had, however, been signed on mutual legal assistance with a number of foreign States.

31. **Mr. Madi** said that he would appreciate clarification of a number of issues: the explicit criminalization of the recruitment or use, by non-State armed groups, of persons under the age of 18 years; the establishment and exercise, by Turkmenistan, of extraterritorial jurisdiction over offences under the Optional Protocol; and the early identification of former child soldiers (including asylum seekers and immigrants).

32. **The Chairperson** said that clarification was needed of the situation regarding extradition in the State party.

33. **Ms. Berdiyeva** (Turkmenistan) said that extradition was usually carried out on the basis of bilateral treaties and that, if no treaty existed, cases were considered individually by the Office of the Procurator-General.

34. **Mr. Madi** asked whether, in the absence of an extradition treaty, the State party would consider using the Optional Protocol as a legal basis for extradition.

35. **Ms. Atajanova** (Turkmenistan) said that, under the national Constitution, international law took precedence over all other instruments.

36. **The Chairperson** observed that the supremacy of international law might not be sufficient justification for the automatic use of the Optional Protocol as a legal basis for extradition. In the Optional Protocol itself, States were asked to consider using the instrument [illegible] asked whether there had been any discussion of that possibility in the State party. The Committee would like to see a general decision being taken to use the Optional Protocol as a legal basis for extradition.

37. **Ms. Atajanova** (Turkmenistan) said that the provisions of international instruments could be invoked if those instruments had been ratified.

38. **Ms. Khazova**, turning to the issue of the definitions of the offences of trafficking in children, child pornography and child prostitution, said that, despite the alarming rise in sexual exploitation via the Internet, the storage of child pornography for personal use was not, in itself, an offence under the Optional Protocol. Some experts believed that the act of storing such images was symptomatic of involvement in activities linked to child pornography, or of a willingness to take part in such activities. Consequently, the State party should amend its legislation to criminalize the storage of child pornography.

39. **The Chairperson** asked whether the State party would consider setting up a body or bodies to coordinate and monitor activities under the two Optional Protocols.

*The meeting was suspended at 4.30 p.m. and resumed at 4.45 p.m.*

40. **Ms. Atajanova** (Turkmenistan) said that the Interdepartmental Commission on compliance with Turkmenistan's international human rights obligations had been set up to coordinate efforts to meet the country's international human rights obligations. That body was made up of representatives of relevant ministries and departments, civil society and law enforcement agencies, and drafted national reports and proposals. However, the Office of the Procurator-General was responsible for coordinating and monitoring activities designed to combat trafficking in persons. Representatives of the Office of the Procurator-General regularly reported to the Commission on how the provisions of the relevant Optional Protocol were being implemented.

41. Turkmenistan cooperated with international organizations and special rapporteurs on the issue of juvenile justice. The Interdepartmental Commission was currently considering the possibility of inviting a number of special rapporteurs to visit the country.

42. With regard to refugee children (particularly those fleeing armed conflict) and the assistance provided to them in terms of rehabilitation and reintegration, in the late 1990s the State party had received large numbers of refugees from Tajikistan and Afghanistan. Those refugees had benefited from appropriate assistance. Under the Act on State Guarantees of the Rights of the Child, children granted refugee status enjoyed the same rights as children who were citizens of the State party: they could choose where they wanted to live; they had access to information on relatives living in Turkmenistan; they could return to their former country of residence (with the assistance of the national authorities), emigrate or apply for Turkmen citizenship; they were provided with temporary housing and employment opportunities; they were placed with appropriate institutions if they had disabilities; and they had access to health care, primary and secondary education and psychological assistance.

43. **The Chairperson** asked whether the State party had set up a child-sensitive asylum process for child asylum seekers who did not have refugee status. She also wished to know whether screening was carried out to identify possible former child soldiers and whether such children could be granted refugee status.

44. **Ms. Atajanova** (Turkmenistan) said that, when dealing with applications for refugee status and asylum, the first step was to identify the applicants, many of whom had no documentation. Adults and juveniles without identity documents were housed in special facilities while background checks were carried out. If the information provided by those persons was confirmed, they could apply to the State Migration Service for asylum, or request refugee status.

45. **Mr. Madi** said that the early identification of former child soldiers was vital in ensuring that such children received professional psychosocial care and assistance in terms of rehabilitation and reintegration and were separated from the general public.

46. **Ms. Berdiyeva** (Turkmenistan) said that she could not give any examples of how the State party dealt with the issue of former child soldiers because the national authorities had not had any experience in that regard. However, national medical personnel and experts were more than capable of providing any care required and conducting the necessary assessments.

47. **Ms. Berdiyeva** (Turkmenistan), responding to a question from Ms. Khazova, said that a special department of the Ministry of Internal Affairs had been tasked with identifying child pornography offences online and taking the necessary preventive measures. If there were found to be discrepancies between domestic and international

legislation on any matter, including child pornography, the Ministry could work with the Cabinet of Ministers to propose amendments or additions. The online dissemination among children of electronic games with explicit sexual content was prohibited.

48. **Ms. Atajanova** (Turkmenistan) said that, under the Weapons Act, the procurement and sale of small arms required a permit and was subject to permission from the Ministry of Foreign Affairs.

49. **Mr. Madi** recalled that the Committee specifically wished to know whether the State party's legislation prohibited the export of arms and military assistance to countries where children had been recruited or used in armed conflicts or hostilities.

50. **Ms. Berdiyeva** (Turkmenistan) said that Turkmenistan was not engaged in an armed conflict and did not manufacture or export weapons. It imported weapons for military use by decision of the Cabinet of Ministers. Any other trading in military weapons was prohibited.

51. In response to questions about the recruitment of children, she said that the Criminal Code did not explicitly criminalize the practice, nor did it define the recruitment of children aged under 15 as a war crime.

52. **Mr. Gastaud** asked whether international humanitarian law and human rights law formed part of the training given to members of the armed forces.

53. **Ms. Atajanova** (Turkmenistan) said that such topics were included in higher education courses and training programmes for law enforcement officers, military officials and border guards. Civil servants took a course on international relations with a section on human rights. Moreover, the Interdepartmental Commission on compliance with Turkmenistan's international human rights obligations was in the process of translating the Geneva Conventions of 1949 into the national language, with the aim of producing a compendium that would be disseminated among students in law schools and other higher education institutions.

54. **Mr. Geldimammedov** (Turkmenistan) said that military academies were run by representatives of the Ministry of Internal Affairs. Military subjects were taught by military officials, while civil subjects were taught by specialists with the appropriate qualifications.

55. **Mr. Gastaud** asked whether complaints mechanisms had been put in place in such academies and, if so, whether students could lodge complaints directly with the relevant authorities, without having to involve the military hierarchy.

56. **Ms. Berdiyeva** (Turkmenistan) replied that mechanisms had been set up and that it was her understanding that students could submit complaints directly. Rules on when and how complaints could be lodged were set out in a law on citizens' petitions.

57. In reply to a question about establishing and exercising extraterritorial jurisdiction, she said that the matter was covered by the Code of Criminal Procedure and handled by the Office of the Procurator-General, which could request foreign authorities to extradite Turkmen citizens or foreigners who had been charged with an offence by a national court. The extradition of persons convicted of an offence and sentenced to a prison term by a foreign court was governed by international treaties and bilateral agreements.

58. **Mr. Madi**, drawing the delegation's attention to article 4 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, said that measures should be taken to combat the recruitment or use in hostilities of minors by non-State armed groups, even if such groups were not based in the State party.

59. **Ms. Berdiyeva** (Turkmenistan), in reply to a question about voluntary recruitment into the armed forces, said that the military of Turkmenistan was staffed through conscription and on a voluntary basis by persons aged 18 and over.

60. **The Chairperson** asked whether the Government intended to establish an independent national human rights institution in line with the Paris Principles and, if so, whether there would be a special department or children's ombudsman dealing specifically with the Convention.

61. **Ms. Atajanova** (Turkmenistan) said that the creation of an independent human rights institution was being considered, alongside the many other recommendations that the Government had received in recent years. Many meetings and seminars had been held on the matter and a bill on the establishment of an ombudsman had been brought before parliament. The duties and responsibilities of the ombudsman had not yet been decided, but might include a focus on children. Although it was too early to provide assurances, it was likely that progress would be made in the near future.

62. **Ms. Khazova** thanked the delegation and expressed her hope that the National Plan of Action for Children would be adopted in 2015 and serve as a road map for future legislative developments. She noted that, despite the significant progress made in Turkmenistan, children's rights still did not receive the attention that they deserved. With that in mind, she hoped that a coordinating body would be set up to deal with children's issues and enable children to play a full and active role in society.

63. **Mr. Nogueira Neto** said that the State party should introduce further reforms of its Criminal Code to ensure greater compliance with the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Given the increasing level of responsibility that was placed on children's shoulders, it was important for victim and witness support programmes to be geared towards their empowerment.

64. **Mr. Madi** said that he hoped that the Government would continue to enact laws to protect children's rights and consider ratifying the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

65. **Ms. Amanniyazova** (Turkmenistan) said that the Committee's recommendations and conclusions would be analysed with a view to their eventual implementation. Efforts would be made to amend existing legislation and pursue international cooperation, which was one of the cornerstones of national policy.

*The meeting rose at 5.50 p.m.*